IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6147 OF 2004
WITH
WRIT PETITION NO.640 OF 2006

Ambejogai Peoples Coop.Bank Ltd.. Petitioners
Versus
Century Nagari Sahakari Pat
Sanstha Maryadit, Sangli .. Respondents

Mr.R.V.More for petitioners
Mr.Anil Kumar Patil for respondent No.1
Mr.N.V.Walawalkar for respondent Nos.4
Mr.Mankapure for respondent No.2.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 7th Febryary 2006.

P.C.

. Heard Mr.More for petitioner, Mr.Patil for respondent No.1, Mr.Walawalkar for respondent No.4 and Mr.Mankapure for respondent No.2. Petition has already been dismissed against respondent No.3. A.G.P. appears for respondent No.5.

2. This petition under Article 227 of the Constitution of India challenges the order passed by the Cooperative Appellate Court dated 20th July 2004 dismissing petitioner's appeal No.109 of 2004.

3. Petitioner challenged the order passed by Coop.Court No.1 Sangli dated 9th March 2004 in Case No.726 of 2003.

4. It is not in dispute that respondent No.1 filed this case against respondent No.2 as well as respondent Nos. 3 to 5 herein. Petitioner in the second petition being W.P.No.640 of 2006 filed an application for joining it as party to the dispute as opponent. Said application was rejected and the order has been confirmed in appeal by the Coop.Appellate Court. That order is delivered on 23rd June 2005.

5. After hearing Mr.More for some time, in my view, appropriate course of action for petitioner before me is to initiate its independent proceedings against its borrower as well as guarantors and join thereto, if so advised, first respondent as well as respondent Nos. 4 and 5. Mr.More does not dispute that the petitioner will ultimately have to adopt such proceedings and apply for appropriate reliefs therein including interim orders for protecting subject matter of the agreement/ power of attorney in favour of petitioner. However, he submits that the order passed by this Court in W.P.6147 of 2004 on July 23, 2004 be continued to enable the petitioner to apply for appropriate orders.

6. This request is reasonable and is not opposed by Mr.Patil and Mr.Walawalkar. Accordingly, petition is disposed of by the following order:-

(a) Petitioner Ambajogai Coop.Bank is at liberty to file its independent proceedings against its borrowers and guarantors, as also, first respondent Credit Society.

(b) In case such a dispute/ proceeding is filed within a period of four weeks from today, it would be open for petitioner to apply for interlocutory reliefs therein and to enable it to do so, the order of status quo passed by this Court on 23rd July 2004 to continue for a period of six weeks from today.

(c) Dispute which will be filed by petitioner would be entertained by the trial court and adjudicated upon its own merits and in accordance with law. Equally orders under challenge would not

prevent petitioner from applying for interlocutory reliefs therein. All contentions of both sides on merits of the controversy are expressly kept open.

(d) The dispute instituted by first respondent which is pending before the Coop.Court at Sangli shall not proceed for a period of four weeks.

(S.C.DHARMADHIKARI, J)